DOCUMENT RESUME

ED 332 621 HE 024 583

AUTHOR Fraas, Charlotte J.
TITLE Selected Amendments Enacted Since 1980 To Control Guaranteed Student Loan Defaults. CRS Report for Congress.
INSTITUTION Library of Congress, Washington, D.C. Congressional Research Service.
REPORT NO CRS-91-246-EPW
PUB DATE 14 Mar 91
NOTE 14p.
PUB TYPE Legal/Legislative/Regulatory Materials (090)

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS *Educational Legislation; Federal Legislation; Higher Education; Laws; *Loan Default; Policy Formation; Postsecondary Education; *Student Loan Programs
IDENTIFIERS *Guaranteed Student Loan Program

ABSTRACT

Congress, over the past decade, has enacted a number of laws with provisions aimed at preventing defaults and improving collections on defaulted student loans. This report presents a synopsis of legislative provisions enacted to combat student loan defaults beginning with the Education Amendments of 1980. The laws included in the report are: Education Amendments of 1980, P.L. 96-374; Omnibus Budget Reconciliation Act of 1981, P.L. 97-35; Student Financial Assistance Technical Amendments of 1982, P.L. 97-301; Student Loan Consolidation and Technical Amendments Act of 1983,, P.L. 98-79; Deficit Reduction Act of 1984, P.L. 98-369; Consolidated Omnibus Budget Reconciliation of 1986 (COBRA), P.L. 99-272, as amended; Higher Education Amendments of 1986, P.L. 99-498; Family Support Act of 1988, P.L. 100-485; An Act to Amend the Higher Education Act of 1965 to Prevent Abuses in the Supplemental Loans for Students Program under Part B of Title IV of the Higher Education Act of 1965, and for Other Purposes, P.L. 100-369; Departments of Labor, Health and Human Services, Education, and Related Agencies appropriations Acts of 1990 (P.L. 101-166) and 1991 (P.L. 101-517); Omnibus Budget Reconciliation Acts of 1989 (P.L. 101-239) and 1990 (P.L. 101-508); Student Right-to-Know and Campus Security Act, P.L. 101-542; and National and Community Service Act of 1990, P.L. 101-610. (LPT)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

91-246 EPW

CRS Report for Congress

ED332621

Selected Amendments Enacted Since 1980 to Control Guaranteed Student Loan Defaults

BEST COPY AVAILABLE

Charlotte J. Fraas
Specialist in Social Legislation
Education and Public Welfare Division

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)
This document has been reproduced as received from the person or organization originating it.
Minor changes have been made to improve reproduction quality.
Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

HE024503

March 14, 1991

CRS

Congressional Research Service • The Library of Congress

The Congressional Research Service works exclusively for the Congress, conducting research, analyzing legislation, and providing information at the request of committees, Members, and their staffs.

The Service makes such research available, without partisan bias, in many forms including studies, reports, compilations, digests, and background briefings. Upon request, CRS assists committees in analyzing legislative proposals and issues, and in assessing the possible effects of these proposals and their alternatives. The Service's senior specialists and subject analysts are also available for personal consultations in their respective fields of expertise.

SELECTED AMENDMENTS ENACTED SINCE 1980 TO CONTROL GUARANTEED STUDENT LOAN DEFAULTS

SUMMARY

Guaranteed Student Loan (GSL) defaults are an increasingly important concern because both the default rate and the cost of defaults are at an all time high. Over the past decade, particularly since 1986, Congress has enacted a number of laws with provisions aimed at preventing defaults and improving collections on defaulted loans. Most of these laws amend the GSL authorizing statute: title IV of the Higher Education Act (HEA) of 1965. This report provides a synopsis of legislative provisions enacted to combat student loan defaults beginning with the Education Amendments of 1980.

The laws included in this report are:

Education Amendments of 1980, P.L. 96-374
Omnibus Budget Reconciliation Act of 1981, P.L. 97-35
Student Financial Assistance Technical Amendments of 1982, P.L. 97-301
Student Loan Consolidation and Technical Amendments Act of 1983, P.L. 98-79
Deficit Reduction Act of 1984, P.L. 98-369
Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA), P.L. 99-272, as amended by the Student Financial Assistance Technical Corrections Act, P.L. 99-320
Higher Education Amendments of 1986, P.L. 99-498
Omnibus Budget Reconciliation Act of 1987, P.L. 100-203
An Act to amend the Higher Education Act of 1965 to prevent abuses in the Supplemental Loans for Students program under part B of title IV of the Higher Education Act of 1965, and for other purposes, P.L. 100-369
Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1989, P.L. 100-436
Family Support Act of 1988, P.L. 100--485
Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 1990, P.L. 101-166
Omnibus Budget Reconciliation Act of 1989, P.L. 101-239
Omnibus Budget Reconciliation Act of 1990, P.L. 101-508
Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 1991, P.L. 101-517
Student Right-to-Know and Campus Security Act, P.L. 101-542
National and Community Service Act of 1990, P.L. 101-610

SELECTED AMENDMENTS ENACTED SINCE 1980 TO CONTROL GUARANTEED STUDENT LOAN DEFAULTS

Education Amendments of 1980, P.L. 96-374, October 3, 1980

This law included the following amendments relating to default control:

- expanded borrower deferments (sec. 413);
- authorized the Department of Education (ED) to exchange information with commercial credit bureaus to aid loan collection (sec. 416);
- authorized guaranty agencies to serve as escrow agents for lenders making multiple disbursements of loan proceeds (multiple disbursements, which are designed to reduce defaults, originated with 1976 amendments to the HEA) (sec. 417(d));
- assigned the guaranty agency the responsibility for ascertaining the enrollment status of borrowers and auditing the loan note (sec. 417)
- required lenders upon making a loan to a borrower to disclose certain information to borrowers on the conditions relating to the loan (sec. 418); and
- authorized the Student Loan Marketing Association (Sallie Mae) to make consolidation loans (sec. 421(e)).

Omnibus Budget Reconciliation Act of 1981, P.L. 97-35, October 13, 1981

Section 534 of this law authorizing the Auxiliary Loans to Assist Students (ALAS) loan program limited the maximum amount an independent undergraduate student could borrow in all GSLs to $2,500.

Student Financial Assistance Technical Amendments of 1982, P.L. 97-301, October 13, 1982

This law included the following amendments relating to default control:

- required lenders to provide borrowers specific information on their loans before the beginning of the repayment period (sec. 13); and
- terminated the authority of Sallie Mae to make consolidation loans August 1, 1983 (sec. 14).

Student Loan Consolidation and Technical Amendments Act of 1983, P.L. 98-79, August 15, 1983

This law included the following amendments relating to default control:

- extended through November 1, 1983 the authority of Sallie Mae to make consolidation loans (sec. 2);
- required lenders upon disbursing loans and at the beginning of the repayment period to disclose certain specific information concerning the loan to borrowers (sec. 3).

Deficit Reduction Act of 1984, P.L. 98-369, July 18, 1984

Section 2653 of this law required the U.S. Internal Revenue Service (IRS) to withhold income tax refunds due to persons owing nontax debts to the Federal Government, which included persons who defaulted on GSLs, and to pay the collected amount to the Federal agency owed the debt. The provision applied to refunds due after December 31, 1985, and before January 1, 1988.

Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA), P.L. 99-272, April 7, 1986, as amended by the Student Financial Assistance Technical Corrections Act, P.L. 99-320, May 23, 1986

Title XVI of COBRA, as amended, entitled the Student Financial Assistance Amendments of 1985, included the following amendments related to default control:

- extended the period of loan delinquency after which a default claim could be made by the lender on Federally Insured Student Loans (FISL) and guaranty agency loans to 180 days (or 240 days when installments are less frequent than monthly) (sec. 16014);
- extended to 270 days after delinquency the period during which a guaranty agency must hold defaulted loans prior to filing a claim for Federal reimbursement (sec. 16014);
- required multiple disbursement for Stafford Loans (regular GSLs) of $1,000 or more for periods of enrollment of at least 6 months, 1 semester or 2 quarters or 600 clock hours, and authorized Federal special allowance payments only on the disbursed amount (sec. 16013);
- required loan checks to be sent to the school in a form requiring endorsement by the student borrower (sec. 16012)
- authorized guaranty agencies to retain from collections administrative costs involved in providing supplemental preclaims assistance to lenders (sec. 16014);

- authorized Sallie Mae and certain lenders to provide loan consolidation to borrowers with title IV HEA loan balances of at least $5,000 (sec. 16017).

- required lenders, loan holders, and guaranty agencies to enter into agreements with credit bureaus to exchange information on GSL borrowers (sec. 16023);

- excluded from student aid eligibility any person who owes a refund on a grant or defaults on any title IV loan rather than only for a grant or a loan for attendance at the institution the person is currently seeking aid (sec. 16032);

- required a student to provide his or her social security number with a statement of educational purpose (sec. 16032);

- required students, who are not graduate or professional students attending schools participating in the Pell grant program, to have a determination of Pell grant eligibility prior to receiving a Stafford loan (sec. 16032);

- established the statute of limitations on filing suits to recover loans at least 6 years from the date the guaranty agency paid the holder on the loss (sec. 16033);

- required borrowers to pay reasonable collection costs and protected guaranty agencies and the Federal Government from a borrower's claim of infancy (not of the age of majority to enter into a contract under some State laws) (sec. 16033).

- authorized the imposition of civil penalties on a lender or guaranty agency found to be in noncompliance with GSL laws or regulations (sec. 16024); and

- required each guaranty agency to have an independent biennial financial and compliance audit (sec. 16034).

Higher Education Amendments of 1986, P.L. 99-498, October 17, 1986

Title IV of this law included the following amendments related to default control:[1]

- limited borrowing by first and second year students to $2,625 (sec. 425(a)(1); sec. 427(b)(1));[2]
- mandated universal need analysis (sec.428(a)(2)(B));
- reaffirmed mandated multiple disbursement (sec. 427(a)(4); sec. 428(i));
- extended the unemployment deferment to 24 months from 12 months and added other new deferments (sec 427(a)(2)(C); sec. 428(b)(1)(M));
- prohibited guaranty agencies from offering inducements to educational institutions, conducting unsolicited mailings to secondary school students, or conducting fraudulent or misleading advertising in order to secure more loan applicants (sec. 428(b)(3));
- authorized Federal reimbursements to guaranty agencies for the cost of providing supplemental preclaims assistance to loan holders in their collection efforts on delinquent loans (sec. 428(c)(1)(A));
- authorized designated guaranty agencies to request information from other agencies insuring loans for borrowers from the designated guarantor's State (sec. 428(b)(6));
- required guaranty agencies to pay a reinsurance fee to the Federal Government based on their default rates (sec. 428(c)(9));
- required guaranty agencies, in the guaranty agreement with the Federal Government, to assure that due diligence will be exercised in the collection of loans insured under the program including a requirement that beneficiaries of the insurance (loan holders) submit evidence that attempts were made to locate the borrower prior to default (sec. 428(c)(2));
- authorized guaranty agencies to permit forbearance on insured loans (sec. 428(c)(3));

---

[1]Most of these provisions were identified in, *Guaranteed Student Loan Handbook*. Consumer Bankers Association, Arlington, VA, 1986. p. 33-34.

[2]All amendments specific to the GSL program are found in section 402 of P.L. 99-498, while amendments to general title IV provisions are found in section 407 of the law. For clarity of identification of the provisions, sections cited are those in the HEA, as amended by this law.

- authorized guaranty agencies to retain a flat 30 percent of collections, rather than up to 30 percent as under previous law, for certain costs associated with the student loan insurance program (sec. 428(c)(6)(A));

- authorized guaranty agencies to retain 35 percent of collections if the State has enacted a statute complying with certain requirements set forth in section 428E of the law to garnish the disposable pay of defaulters up to 10 percent (sec. 428(c)(6)(D); sec. 428E);

- authorized a 3-year pilot program for the rehabilitation of defaulted loans if the defaulter was unemployed or institutionalized at the time of default and if the defaulter made 12 consecutive payments (sec. 428F);

- authorized guaranty agencies to provide information to eligible institutions on their former students who are in default on a loan (sec. 428(k));

- authorized graduated or income-sensitive payment schedules for consolidation loans (sec. 428C(c)(2));

- required guaranty agencies and lenders to make reports to credit bureaus on current balances, default date, collection and cancellation of the loan through repayment; loan holders must report on loans in good standing and guaranty agencies must report on loans in default status (sec. 430A);

- required the Secretary of Education to limit, suspend or terminate lenders engaging in fraudulent or misleading advertising leading to borrowing by ineligible persons or violations of the certification of eligibility (sec. 432(h)(1));

- authorized the Secretary of Education to sell defaulted loans assigned to the Federal Government under limited circumstances (sec. 432(i));

- required lenders on disbursing loans to inform borrowers of the total cumulative balance owed, the projected level of indebtedness based on a 4-year college career, and an estimate of the projected monthly repayment on such debt (sec. 433(a)(8);

- required lenders, upon the first disbursement of a guaranteed loan to a borrower, to provide a separate paper summarizing borrower rights and responsibilities, including a statement of the consequences of default and that defaults will be reported to credit bureaus (sec. 433(d));

- prohibited schools from using commissioned salespersons to promote the availability of the GSL programs at the school (sec. 435 (a)(1));

- prohibited lenders from conducting unsolicited mailings of student loan application forms to students unless the students have previously received a loan from that lender (sec. 435(d)(5)).

- required exit counselling for borrowers on guaranteed loans (sec. 485 (b));

- prohibited students in default on title IV loans or owing refunds on title IV grants to any institution from receiving any grant, loan or work assistance under title IV (sec. 484(a)(3));

- required the Secretary of Education to make available to institutions, lenders, and secondary schools descriptions of student assistance programs, including information to enable students to assess debt burden and monthly and total repayment obligations that could be incurred if they received varying amounts of title IV loans (sec. 485(d)); and

- created a National Student Loan Data System to maintain information that could be used for the improvement of Federal debt collection practices (sec. 485B).

Omnibus Budget Reconciliation Act of 1987, P.L. 100-203, December 22, 1987

This law included the following amendments related to default control.

- required guaranty agencies to notify institutions of higher education, at their request, when their former students are in default on GSLs (sec. 3003);

- extended the authority through June 30, 1988 for the IRS to withhold the tax refunds due persons owing nontax debts, including defaulted GSLs, to the Federal Government (sec. 9402).

An Act to amend the Higher Education Act of 1965 to prevent abuses in the Supplemental Loans for Students program under part B of title IV of the Higher Education Act of 1965, and for other purposes, P.L. 100-369, July 18, 1988

This law included the following amendments related to default control:

- required applicants for Supplemental Loans for Students (SLS) loans to have received a determination of Pell grant eligibility and, if eligible, have filed an application for a Pell grant for the appropriate enrollment period (sec. 1);

- required applicants for SLS loans to have a determination of need for a Stafford loan and, if eligible, to have applied for a Stafford loan (sec. 2);

- required SLS loans to be limited to the cost of attendance minus any amount of Stafford loans for which the student is eligible and any other financial assistance for which the student is certified for purposes of the need calculation for Stafford loans (sec. 3); and

- required the multiple disbursement of SLS loans in the same manner as Stafford loans (sec. 5).

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1989, P.L. 100-436, September 20, 1988

Title III of this Act required students to have a high school diploma or equivalency certificate to be eligible for title IV student aid if the student is accepted for enrollment or enrolled in a vocational program of less than 1 year leading to an occupation for which the student must be certified and such certification requires a high school diploma or equivalency certificate.

Family Support Act of 1988, P.L. 100-485, October 13, 1988

Title VII, section 701 of this law extended through January 10, 1994 the authority of the IRS to withhold the tax refunds due GSL defaulters and apply such refunds to their debt.

Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 1990, P.L. 101-166, November 21, 1989

Title III of this law requires institutions participating in GSL programs that have default rates exceeding 30 percent to implement a pro rata refund policy for any student receiving title IV aid who withdraws before completing half the course or 6 months, whichever is earlier. This provision applies to all FY 1990 funds available through September 30, 1991.

Omnibus Budget Reconciliation Act of 1989, P.L. 101-239, December 19, 1989

Title II, subtitle A of this law, the Student Loan Reconciliation Amendments of 1989, included the following amendments related to default control:

- required lenders to grant forbearance to borrowers serving in medical or dental internships or residencies who exhaust their eligibility for GSL deferments for such service (sec. 2002);

- effective January 1, 1990 through September 30, 1991 prohibited borrowing of SLS loans by undergraduate students attending institutions with cohort default rates for the most recent fiscal year of 30 percent or over (sec. 2003);

- effective January 1, 1990 through September 30, 1991 reduced the SLS loan limits for students enrolled in programs of less than 1 year from $4,000 to $2,500 for a student who is enrolled in a program of at least two-thirds of a year and $1,500 for a student whose program is at least one-third of a year but less than two-thirds of a year (sec. 2003);

- required students to have a high school diploma or a certificate of high school equivalency to participate in the SLS program (sec. 2003);

- required a 30-day delay in the disbursement of SLS loans to students not having completed at least 1 year of undergraduate study (sec. 2004);

- required schools enrolling nonhigh school graduates to make available a program to assist them in obtaining a certificate of high school equivalency (sec. 2003);

- required multiple disbursement of all GSL and SLS loans (i.e., no minimum amount or program length) with no disbursement of over one-half the loan amount (sec. 2004);

- provided a 6-month amnesty program for defaulters and required the sale of defaulted loans on which 12 consecutive payments have been made to banks and other financial institutions (sec. 2005).

- authorized the Secretary of Education to take emergency actions to suspend program participation by lenders, institutions, and institutions' agents for up to 30 days (sec. 2006);

- prevented institutions from being certified for student aid program participation if they have lost accreditation within the preceding 24-month period (sec. 2007);

- authorized the Secretary of Education to require the National Student Loan Data System to be used to verify certain information concerning borrowers (sec. 2008); and

- clarified the prohibition against the use of aid administrator discretion to adjust need for groups of students, affirming the use of such discretion only on a case-by-case basis (sec. 2009);

Omnibus Budget Reconciliation Act of 1990, P.L. 101-508, November 5, 1990

Title III, subtitle A of this law, the Student Loan Default Prevention Initiative Act of 1990, included the following provisions related to default control.

- effective July 1, 1991 through September 30, 1992 prohibited schools with cohort default rates of 35 percent or higher for each of the 3 most recent fiscal years from participation in the GSL programs with this threshold rate dropping to 30 percent for FY 1993 through FY 1996 (historically black colleges and tribally controlled community colleges are exempt from the prohibition through July 1, 1994) (sec. 3004);

- authorized a school to refuse to certify a student for a loan when the school determines that the student's expenses may be met more appropriately from other sources of aid (sec. 3004);

- extended through FY 1996 provisions of P.L. 101-239 regarding limits on the participation in the SLS program because of a school's default rate and regarding lowered SLS maximum borrowing for students in short-term programs (sec. 3004);

- required a 30-day delay in the disbursement of Stafford and SLS loans to first time first-year borrowers (sec. 3003);

- required ability-to-benefit students (nonhigh school graduates) to pass independently administered tests approved by the Secretary of Education for student aid eligibility (sec. 3005);

- amended Federal bankruptcy statutes to allow certain actions to go forth, which were previously stayed, against a debtor educational institution that could end its eligibility for student aid (sec. 3007);

- required supplemental preclaims assistance to be provided by guaranty agencies at the request of lenders, and changed Federal reimbursement for such assistance by authorizing a flat Federal payment of $50 for supplemental preclaims assistance to be payable only on loans that do not enter default on or before the 150th day after the 120th day of delinquency (sec. 3002).

Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 1991, P.L. 101-517, November 5, 1990

Title III of this law requires ability-to-benefit students, for award year 1991-1992, to have passed a test, which will have been developed and administered independent of the institution using the test, of ability to complete successfully the course of study that the student is pursuing.

Student Right-to-Know and Campus Security Act, P.L. 101-542, November 8, 1990

Title III of this law included an amendment to the definition of "cohort default rate" clarifying that a default only be counted if a claim for insurance has been paid on the loan either by ED or by a guaranty agency and excluding from the calculation of the rate any loans, which due to improper servicing or collection, would result in an inaccurate or incomplete rate calculation.

National and Community Service Act of 1990, P.L. 101-610, November 16, 1990

Section 201 of this law requires institutions participating in HEA title IV programs to provide students with information on the terms and conditions under which students receiving student loans may obtain deferrals for service in the Peace Corps, VISTA, or some comparable full-time volunteer service with a tax exempt organization. Section 202 of this law requires similar information to be provided in exit counseling for title IV student loan borrowers.